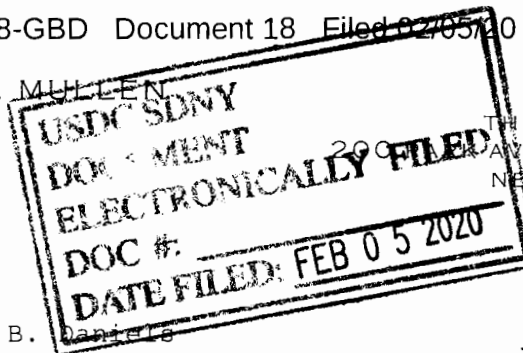


WESLEY M. MULLEN

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February 5, 2020

Hon. George B. Daniels  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

VIA CM/ECF

Re: Cheng v. Olzem et al., No. 1:19-cv-06128-GBD

Your Honor,

I represent the Plaintiff in this action for copyright infringement. I write with two requests.

First, Plaintiff requests that the status conference set for tomorrow, February 6, 2020, be adjourned to a date on or after March 6, 2020, to allow time for Defendants' response to the Complaint.

Second, pursuant to Fed. R. Civ. P. 4(m), Plaintiff requests that the time to serve the corporate defendant be extended to February 28, 2020. Good cause exists for the extension because Defendants have evaded service.

Neither Defendant responded to Plaintiff's request to waive service pursuant to Fed. R. Civ. P. 4(d)(1).<sup>1</sup>

On January 21, 2020, Mr. Mark Terry Esq. contacted me and informed me that he is retained for the Defendants in this case. On January 22, 2020, I requested that Mr. Terry accept service on his clients' behalf and reiterated that the costs of subsequent attempts at service are chargeable to Defendants. Fed. R. Civ. P. 4(d)(2). Counsel declined to waive or accept service, declined to identify a time and place at which Defendant would be available to receive personal service. Multiple attempts to serve process in person at the residential address were unsuccessful. (See Exhibit A (Affidavit of Attempted Service).)

Service upon the individual defendant was completed on January 31, 2020. (ECF Doc. No. 17 (Affidavit of Service).)

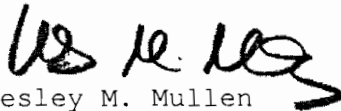
<sup>1</sup> See ECF Doc. No. 12-1 (cover letter to Defendant Olzem enclosing waiver request); ECF Doc. NO. 12-2 (cover letter to Defendant Lepastell LLC enclosing waiver request)

I am informed by Plaintiff's Florida agent for service of process that service upon Defendant Lepastell LLC via the Florida Secretary of State will require issuance of a new summons by the Clerk of this Court directed to the entity care of the Secretary of State. Plaintiff intends to complete service as expeditiously as possible. We request a modest extension of the period for service for that purpose.

\* \* \*

For the reasons stated above, Plaintiff requests (1) that the status conference set for February 6, 2020 be adjourned to a date on or after March 6, 2020; and (2) that the time to serve Defendant Lepastell LLC be extended to February 28, 2020.

Respectfully,

  
Wesley M. Mullen

Cc: Mark Terry, Esq. (via email to mark@terryfirm.com)